

### **REMARKS**

Claims 5, 7, 9, and 11-13 are now pending in this application. Claims 5, 9, and 11-13 are independent. Claims 5, 9, and 11-13 have been amended; claims 1-4, 6, 8, 10-12, and 14-28 have been canceled; and no claims have been added by this amendment.

The claim amendments merely place various dependent claims in independent form, thus ensuring that no new matter is being presented, and that no new issue requiring further search and consideration is being raised. Accordingly, entry of the amendment after final rejection is requested.

#### **Unpatentability Rejection over Fischell et al. in View of Scarantino et al.**

Withdrawal of the rejection of claims 1-6, 8, 9, 11-25 and 26-28 under 35 U.S.C. §103(a) as being unpatentable over Fischell et al (US2002/0099412) in view of Scarantino et al. (US 6,402,689) is requested. Claims 1-4, 6, 8, 10-12, and 14-28 have been canceled, thus rendering their rejection moot.

At the outset, Applicant notes that, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, ***the prior art reference must teach or suggest all the claim limitations.***<sup>1</sup> Further, the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure.<sup>2</sup>

The Examiner asserts that the recitations in Claim 6 and 9 are disclosed by paragraph [0182] of Fischell et al. However, Fischell et al. simply disclose a connection, and does not

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<sup>1</sup> See MPEP §2143.

<sup>2</sup> *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) and See MPEP §2143.

disclose the limitation of “transmitting the measured data accumulated in the memory in response to a request signal supplied from outside”, which is recited by claims 6 and 9.

Further, the Examiner asserts that an antenna configured as recited in claims 11, 12, and 13, is disclosed by paragraph [0034] of Fischell et al. However, this portion of the applied art merely states the existence of the antenna, and does not describe with any specificity how the antenna is configured, particularly a configuration that discloses Applicants’ claimed limitation.

Accordingly, since the applied art does not teach or suggest all the claim limitations in the presently pending claims, withdrawal of the rejection and allowance of claims 5, 7, 9, and 11-13 are requested.

### ***Specific Deficiencies of the Applied Art***

The applied art, taken alone or in combination, does not teach or suggest an in-vivo information extracting system wherein, among other features, “...a tag device...comprises tag transmission means for wirelessly transmitting the measured data outputted by the in-vivo information extracting means to the relay device...[and] the relay transmission means comprises means for transmitting the measured data accumulated in the data accumulating means to outside the relay device in response to a request signal supplied from outside the relay device”, as recited in independent claim 5, as amended.

Further, the applied art, taken alone or in combination, does not teach or suggest an in-vivo information extracting system wherein, among other features, “...a tag device...comprises tag transmission means for wirelessly transmitting the measured data outputted by the in-vivo information extracting means to the relay device...[and] the tag transmission means comprises means for transmitting the measured data accumulated in the data accumulating means to the relay device in response to a request signal supplied from outside the tag device”, as recited in independent claim 9, as amended.

In addition, the applied art, taken alone or in combination, does not teach or suggest an in-vivo information extracting system wherein, among other features, "...the tag reception means and the tag transmission means comprise a low-frequency coil antenna", as recited in independent claim 11, as amended.

Still further, the applied art, taken alone or in combination, does not teach or suggest an in-vivo information extracting system wherein, among other features, "...the tag reception means and the tag transmission means comprise a radio-frequency planar loop antenna", as recited in independent claim 12, as amended.

Finally, the applied art, taken alone or in combination, does not teach or suggest an in-vivo information extracting system wherein, among other features, "...the tag reception means and the tag transmission means use a container of the tag device as a radio-frequency antenna", as recited in independent claim 13, as amended.

Accordingly, since the applied art does not teach or suggest all the claim limitations of the pending independent claims, withdrawal of the rejection and allowance of claims 5, 7, 9, and 11-13 are respectfully requested.

### **Conclusion**

In view of the above amendment and remarks, Applicants believe that each of pending claims 5, 7, 9, and 11-13 in this application is in immediate condition for allowance. An early indication of the same would be appreciated.

In the event the Examiner believes an interview might serve to advance the prosecution of this application in any way, the undersigned attorney is available at the telephone number indicated below.

The Examiner is respectfully requested to enter this Amendment After Final, in that it raises no new issues, but merely places the claims in a form more clearly patentable over the references of record by amendment of various dependent claims into independent form. In the

alternative, the Examiner is respectfully requested to enter this Amendment After Final in that it reduces the issues for appeal.

Although no fees are believed to be due with this Amendment, for any fees that are due, including fees for extensions of time, the Director is hereby authorized to charge any fees or credit any overpayment during the pendency of this application to CBLH Deposit Account No. 22-0185, under Order No. 22040-00027-US from which the undersigned is authorized to draw.

Dated: August 15, 2007

Respectfully submitted,

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